

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nathan Winshall	Team: Squad #3	CCRB Case #: 201710514	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/18/2017 12:52 PM	Location of Incident: 227 Sullivan Place	Precinct: 71	18 Mo. SOL 6/18/2019	EO SOL 6/18/2019	
Date/Time CV Reported Sat, 12/23/2017 6:21 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 12/23/2017 6:21 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DTS Juan Jimenez	04108	932829	DB SVD

Officer(s)	Allegation	Investigator Recommendation
A.DTS Juan Jimenez	Abuse: Detective Juan Jimenez arrested § 87(2)(b)	
B.DTS Juan Jimenez	Abuse: Detective Juan Jimenez arrested § 87(2)(b)	
C.DTS Juan Jimenez	Abuse: Detective Juan Jimenez arrested § 87(2)(b)	
D.DTS Juan Jimenez	Abuse: Detective Juan Jimenez arrested § 87(2)(b)	
E.DTS Juan Jimenez	Abuse: Detective Juan Jimenez arrested § 87(2)(b)	
F.DTS Juan Jimenez	Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)	
G.DTS Juan Jimenez	Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)	
H.DTS Juan Jimenez	Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)	
I.DTS Juan Jimenez	Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)	
J.DTS Juan Jimenez	Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)	
K.DTS Juan Jimenez	Discourtesy: Detective Juan Jimenez spoke discourteously to § 87(2)(b)	
L.DTS Juan Jimenez	Discourtesy: Detective Juan Jimenez spoke discourteously to § 87(2)(b)	
M.DTS Juan Jimenez	Discourtesy: Detective Juan Jimenez spoke discourteously to § 87(2)(b)	
N.DTS Juan Jimenez	Discourtesy: Detective Juan Jimenez spoke discourteously to § 87(2)(b)	
O.DTS Juan Jimenez	Discourtesy: Detective Juan Jimenez spoke discourteously to § 87(2)(b)	

Case Summary

On December 23, 2017, § 87(2)(b) filed the following complaint on behalf of her son, § 87(2)(b) with the CCRB via the online website.

On December 18, 2017, at approximately 12:52 p.m., § 87(2)(b) and § 87(2)(b) entered 227 Sullivan Place in Brooklyn, to seek warmth during their school lunch break. Det. Juan Jimenez, of the Sexual Offenders Monitoring Unit, who was off-duty at the time, observed them and believed he recognized them from security footage that captured the assault of his elderly father, § 87(2)(b). Det. Jimenez pursued the students into 227 Sullivan Place where he allegedly told them get on the floor. He then drew his service weapon and allegedly aimed it at the back of § 87(2)(b) head, before aiming it at the other students (**Allegation A – Abuse of Authority:** § 87(2)(g) **Allegation B – Abuse of Authority:** § 87(2)(g) **Allegation C – Abuse of Authority:** § 87(2)(g) **Allegation D – Abuse of Authority:** § 87(2)(g) **Allegation E – Abuse of Authority:** § 87(2)(g) **Allegation F – Force:** § 87(2)(g) **Allegation G – Force:** § 87(2)(g) **Allegation H – Force:** § 87(2)(g) **Allegation I – Force:** § 87(2)(g) **Allegation J – Force:** § 87(2)(g) At this time, he allegedly told the students to “Get the fuck on the floor,” and when the students complied and began protesting Det. Jimenez’s actions, he allegedly told them to “Shut the fuck up.” (**Allegation K – Discourtesy:** § 87(2)(g) **Allegation L – Discourtesy:** § 87(2)(g) **Allegation M – Discourtesy:** § 87(2)(g) **Allegation N – Discourtesy:** § 87(2)(g) **Allegation O – Discourtesy:** § 87(2)(g) § 87(2)(b) and § 87(2)(b) were all arrested as a result of this incident for Assault in the Second Degree. Their arrests were later voided (Board Review 27). No video footage was recovered regarding this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Juan Jimenez arrested § 87(2)(b)

Allegation (B) Abuse of Authority: Detective Juan Jimenez arrested § 87(2)(b)

Allegation (C) Abuse of Authority: Detective Juan Jimenez arrested § 87(2)(b)

Allegation (D) Abuse of Authority: Detective Juan Jimenez arrested § 87(2)(b)

Allegation (E) Abuse of Authority: Detective Juan Jimenez arrested § 87(2)(b)

Allegation (F) Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)

Allegation (G) Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)

Allegation (H) Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)

Allegation (I) Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)

Allegation (J) Force: Detective Juan Jimenez pointed his gun at § 87(2)(b)

It is undisputed that Det. Jimenez followed § 87(2)(b) and § 87(2)(b) for multiple city blocks and then into 227 Sullivan Place where he held them with his firearm drawn. Det. Jimenez effected the arrest of these individuals under an open UF-61 in which his father was the victim (Board Review 28). These arrests were later voided. § 87(2)(b) and his friends were all wearing a school uniform that consisted of a maroon/burgundy shirt and block or khaki pants.

In his sworn CCRB statement, § 87(2)(b) stated that, to his knowledge, he and his friends had not assaulted anyone or done anything illegal. In a telephone statement, § 87(2)(b) described himself and his friends in the following manner: there were four males and

one female, all with short black hair, three styled in an afro, all between the ages of § 87(2)(b), and all standing between 5'8" tall and 6'2" tall. In addition to his school uniform, § 87(2)(b) was wearing a sweatshirt underneath a puffy black jacket, and a green backpack (Board Review 01).

§ 87(2)(b) stated that Det. Jimenez walked into 227 Sullivan Place approximately one minute after he and his friends had and said, "Get on the ground, now." He did not issue any additional commands. Det. Jimenez then put the backpack he was carrying on the ground, pulled his gun out of its holster, which was on his hip, and pointed the gun against the back of § 87(2)(b) head. § 87(2)(b) was standing closest to the door and was facing the staircase. Det. Jimenez did not specifically aim his gun at anyone else's head. Det. Jimenez began to sweep his arms back and forth, aiming his gun at everyone in the room. § 87(2)(b) and his friends then got on the floor. Det. Jimenez only asked § 87(2)(b) and his friends to get on the ground once and they immediately complied. While § 87(2)(b) and his friends were on the ground, Det. Jimenez continued to sweep his arms, aiming his gun at all of § 87(2)(b)'s friends. Det. Jimenez then requested additional officers to the scene and while they waited for more officers to arrive, Det. Jimenez kept his gun out and continued to aim it at § 87(2)(b) and his friends by sweeping his arms back and forth. Det. Jimenez re-holstered his gun approximately three minutes before additional units arrived on scene.

In a telephone statement, § 87(2)(b) provided the following description of himself and his friends: there were four males and one female, all between the ages of § 87(2)(b). § 87(2)(b) was wearing blue and white sneakers, a black North Face jacket, and a book bag; § 87(2)(b) was wearing either a black or a burgundy jacket; § 87(2)(b) was wearing blue sneakers, and a black jacket; § 87(2)(b) was wearing a black jacket. § 87(2)(b) added that each student had a backpack. § 87(2)(b)'s statement was generally consistent with § 87(2)(b)'s. (Board Review 02).

§ 87(2)(b) and § 87(2)(b) did not provide a statement to the CCRB (Board Review 03).

Det. Jimenez stated that he recognized four of the individuals from video footage he had captured on his phone of video footage taken from the building in which § 87(2)(b) was assaulted, § 87(2)(b) in Brooklyn. Specifically, § 87(2)(b) had been pushed by one of the individuals and had subsequently fallen and hit his head. Det. Jimenez had watched the video footage on his phone, which was in color, at least 10 times between when § 87(2)(b) was assaulted, on December 6, 2018, and December 17, 2018. The video footage was from a camera that was attached to the ceiling and aimed downward. It captured the faces and hairstyles of § 87(2)(b) assailant and the three individuals who were with the assailant. Det. Jimenez determined from the video footage that the four individuals were all black males who were wearing a § 87(2)(b) uniform, which he knew to be khaki-colored pants and a maroon polo shirt. All the students who attend the high school wore this uniform; additionally, a lot of students also wear a grey sweatshirt. Additionally, one of the individuals was approximately 5'6" tall, another was approximately 5'8" tall, and another was "over 5'6" tall." The individual who assaulted § 87(2)(b) was 5'10" to 5'11" tall, had a thin build, had an afro, was wearing khaki-colored chino pants, sneakers, the grey sweatshirt that many students at § 87(2)(b) wear, a coat, and a book bag. Of the other three individuals, one had a smaller afro, one had their hood up, and the final individual, the gender of whom Det. Jimenez later stated he could not determine, wore their hair "high and tight with twists." All the individuals had knapsacks, and the individual who pushed § 87(2)(b) had a grey/blue knapsack

with a hologram on it. Det. Jimenez was “not very familiar” with the details of the UF-61 that was generated regarding this incident and was not involved in its investigation, nor was he familiar with the details of the investigation.

On December 17, 2017, Det. Jimenez believed he recognized the individual who had assaulted § 87(2)(b) and the assailant’s friends based on their clothing, their slender builds, the fact that they were black males, and their hairstyles. He did not recognize them for any other reason. He had never seen them before other than in the video. Additionally, Det. Jimenez stated that § 87(2)(b) 227 Sullivan Place, and § 87(2)(b) were all close to one another. Det. Jimenez stated that while following the individuals before entering 227 Sullivan Place, he noticed that one of the individuals, not the one whom Det. Jimenez believed had previously assaulted § 87(2)(b) was wearing a maroon jacket and seemed to have a “bulky object,” approximately the size of a fist, in their right jacket pocket. The bulge did not have a specific shape. Det. Jimenez could not tell what the bulge was. Once Det. Jimenez followed the students into 227 Sullivan Place, he stated, “Police, don’t move. Show me your hands. Sit on the ground.” Three of the individuals complied, two of them did not. One of the individuals who did not comply was the individual with the non-descript bulge in his right jacket pocket. The individual whom Det. Jimenez believed had assaulted his § 87(2)(b) complied with his orders. The two individuals who did not comply had their hands in coat pockets and it appeared to Det. Jimenez as though they were going to run past Det. Jimenez because of their “body movement and aggression.” Det. Jimenez elaborated that this meant that they were both leaning forward. He did not notice any bulges on them other than the bulge he initially noticed in the maroon jacket pocket. At this point, Det. Jimenez drew his weapon and pointed it in the individuals’ general direction and gave an order again, “Police, don’t move. Show me your hands. Sit on the ground.” Later in the interview, Det. Jimenez stated that he said, “Police, don’t move,” a second time and that the two individuals who had not complied continued not to comply and once again leaned forward; however, when he issued this command a third time, he drew and pointed his gun and they complied. Det. Jimenez was approximately five feet from the closest individual when he drew his gun and pointed it in the individuals’ general direction. He was approximately six to seven feet from the individual who was furthest from him. Det. Jimenez did not aim his gun at anyone in particular. No one was in the line of fire of Det. Jimenez’s weapon. Det. Jimenez aimed his weapon up at an angle, as many of the individuals were on a higher platform, in their general direction. He did not point it at any individual person and did not move the gun.

Det. Jimenez drew his weapon because he was outnumbered and feared being attacked. When two of the individuals failed to comply with Det. Jimenez’s instructions, he became more scared. When he saw the individuals who failed to comply lean forward, he became even more scared. He was made additionally scared because the individuals had their hands in their pockets. This made him scared because he did not know if the individuals had a weapon or something they could use as a weapon to hurt him. When asked if there was anything that indicated to Det. Jimenez that the individuals had a weapon on them, he responded, “[The individuals] not complying, the bulge from earlier, kept me on point.” Had the individuals complied and sat down, Det. Jimenez would not have drawn his weapon. There were no other reasons that Det. Jimenez decided to draw his weapon.

While he was aiming his guns at the individuals, Det. Jimenez called 9-1-1 using his personal cell phone and requested additional units to the scene. He held his gun in one hand and held his phone in the other. Det. Jimenez continued to point his gun in the individuals’ general

direction until additional units arrived, and once the first responding unit arrived, he re-holstered his gun. At no point did the students attempt to get up and leave.

The DAS snapshots for the respective students describe them in the following way:

§ 87(2)(b) was a § 87(2)(b)-year-old Black male, who stood § 87(2)(b) (Board Review 04); § 87(2)(b) was a § 87(2)(b)-old Black male who stood § 87(2)(b) (Board Review 05); § 87(2)(b) was a § 87(2)(b)-old Black male, who stood § 87(2)(b) and had black hair (Board Review 06); § 87(2)(b) (spelled § 87(2)(b) was an § 87(2)(b)-old Black female, who stood § 87(2)(b) (Board Review 07); § 87(2)(b) was a § 87(2)(b)-old Black male, who stood § 87(2)(b) (Board Review 08).

DD5s from the investigation into § 87(2)(b) assault include black and white still photos of the assailant and their accomplices from the video that captured § 87(2)(b) assault (Board Review 09).

The UF-61 generated regarding § 87(2)(b) assault states that § 87(2)(b) stated that the defendant “did push him on to the ground causing § 87(2)(b) to strike his head on the tile [sic] floors and causing bruising and substantial pain. § 87(2)(b) refused medical attention] on scene. § 87(2)(b) is over § 87(2)(b) old” (27 Board Review).

According to *People v. Dubinsky*, “Vague and general descriptions are not sufficient to constitute reasonable suspicion.” In this case, descriptions of suspects’ race, gender, approximate age, and clothing were insufficient to establish reasonable suspicion. *People v. Dubinsky* 289 A.D.2d 415; 734 N.Y.S.2d 245; 2001 N.Y. App. Div. (Board Review 10).

According to *Terry v. Ohio*, the level of certainty that a suspect has committed a crime that is required for a police officer to arrest an individual is greater than the level of certainty that a police officer must have to stop an individual. *Terry v. Ohio* 392 U.S. 1; 88 S. Ct. 1868; 20 L. Ed. 2d 889 (Board Review 11).

According to *People v. Finlayson*, “To reconcile the officer’s right of self-protection with the citizen’s right to personal liberty we need only look, once again, to the constitutional standard of reasonableness... if an officer were to draw his weapon against an individual suspected only of shoplifting or some other petty offense, the intensity of the confrontation, in the absence of any independent indication of danger, would be raised to a level well beyond that which could be justified as reasonably related to the surrounding circumstances” *People v. Finlayson* 76 A.D.2d 670 (Board Review 26).

According to NYPD Patrol Guide Procedure 221-01, “The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable” (Board Review 12).

§ 87(2)(b), § 87(2)(g)

[illegible]

Det. Jimenez stated that when he first entered 227 Sullivan Place, he said to the students, "Police, don't move. Show me your hands. Sit on the ground," approximately three times. While the students were on the ground, they spoke with one another; however, Det. Jimenez could not tell what they were saying. Det. Jimenez did not say, "Shut the fuck up." Det. Jimenez did not use

CCRB Case # 201710514

any profanity towards the individuals. At no point did any individual complain about Det. Jimenez using profanity.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (Board Review 13).
- This is the first complaint to which § 87(2)(b) has been a party (Board Review 14).
- This is the first complaint to which § 87(2)(b) has been a party (Board Review 15).
- This is the first complaint to which § 87(2)(b) has been a party (Board Review 16).
- This is the first complaint to which § 87(2)(b) has been a party (Board Review 17).
- This is the first complaint to which § 87(2)(b) has been a party (Board Review 18).
- Det. Jimenez has been a member-of-service for 14 years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- As of April 20, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 25).

Squad No.: 3

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date